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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS-PIRO-29724; PPMWPIRON0 PPMRSNR1Z.Y00000 200P103601]

RIN 1024-AE53

Pictured Rocks National Lakeshore; Snowmobiles

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to amend its special regulations for Pictured Rocks National Lakeshore to clarify where snowmobiles may be used within the boundaries of the Lakeshore by naming several snowmobile routes that are not currently identified. The proposed rule would replace general language allowing snowmobiles on unplowed roads and the shoulders of plowed roads with a comprehensive list of designated snowmobile routes. The proposed changes would provide greater certainty to the public by removing ambiguity in the current regulations about where snowmobiles are allowed. The use of snowmobiles within areas of the National Park System is prohibited except on routes and water surfaces designated by special regulation.

DATES: Comments must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024-AE53, by either of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Follow the instructions for

submitting comments.

- Mail or hand deliver to: N8391 Sand Point Road, P.O. Box 40, Munising, Michigan 49862-0040.

Instructions: Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words “National Park Service” or “NPS” and must include the docket number or RIN (1024-AE53) for this rulemaking. Comments received may be posted without change to www.regulations.gov, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: David Horne, Superintendent, Pictured Rocks National Lakeshore, (906) 387-2607 ext 1202, david_horne@nps.gov.

SUPPLEMENTARY INFORMATION:

Background.

Significance of the Lakeshore.

Colorful sandstone cliffs tower 50 to 200 feet above the vast and glistening fresh water of Lake Superior. Deep shoreline forests open onto sparkling inland lakes, gurgling streams, and waterfalls. Sand dunes perch atop miles of high sand bluffs and unspoiled beaches. Beaver-chewed tree stumps, a raven's nest balanced high on a rocky ledge, and cloven deer tracks imprinted in the mud hint at the abundance of wildlife that inhabit the beautiful and diverse landscape. These features create the spectacular setting that is Pictured Rocks National Lakeshore. Congress established this location as the country's first national lakeshore in 1966 to preserve the shoreline, cliffs, beaches, and dunes, and to provide an extraordinary place for

recreation and discovery. Little more than 6 miles across at its widest point, the Lakeshore hugs Lake Superior's shoreline for nearly 40 miles. The Lakeshore consists of two zones: the Lakeshore Zone, federal land managed by the National Park Service (NPS); and the Inland Buffer Zone, a mixture of federal, state, and private land. Together these zones encompass nearly 73,000 acres of protected land and water that stretch from Munising to Grand Marais, Michigan. Attractions at the Lakeshore include a lighthouse and former Coast Guard stations, along with old farmsteads and orchards. The Lakeshore is a year-round recreational destination where hiking, camping, hunting, nature study, and winter activities abound.

NPS Management Authority over Snowmobile Use.

The NPS manages the Lakeshore under the NPS Organic Act (54 U.S.C. 100101 *et seq.*), which gives the NPS broad authority to regulate the use of the lands and waters under its jurisdiction. The Organic Act authorizes the Secretary of the Interior, acting through the NPS, to “make and publish such regulations the Secretary considers necessary or proper for the use and management of [National Park] System units.” In the Lakeshore's enabling act, Congress directed the Secretary of the Interior, acting through the NPS, to preserve the Lakeshore for the benefit, inspiration, education, recreational use, and enjoyment of the public. 16 U.S.C. 460s.

Executive Order 11644, “Use of Off-Road Vehicles on the Public Lands,” issued in 1972 and amended by Executive Order 11989 in 1977, requires federal agencies to issue regulations for the designation of specific areas and routes on public lands where off-road vehicles, including snowmobiles, may be used. The NPS implemented the Executive Order as it relates to snowmobiles in 36 CFR 2.18. Under 36 CFR 2.18(c), the use of snowmobiles is prohibited, except on designated routes and water surfaces used by motor vehicles or motorboats during other seasons. These routes and water surfaces must be designated by special regulation and only

when their use is consistent with the park's natural, cultural, scenic and aesthetic values; safety considerations; and park management objectives; and will not disturb wildlife or damage park resources.

Executive and Secretarial Priorities.

On February 24, 2017, President Trump issued Executive Order 13777, “Enforcing the Regulatory Reform Agenda.” This Executive Order established a regulatory reform initiative to alleviate unnecessary regulatory burdens placed on the American people. As part of the Department of the Interior’s approach for implementing this initiative, the NPS is reviewing its regulations in order to identify those that should be repealed, replaced, or modified. These include regulations that are outdated or unnecessary. The NPS has identified the special regulations for the Lakeshore relating to snowmobiles as appropriate for modification under Executive Order 13771 for the reasons explained below.

On April 18, 2018, the Secretary of the Interior signed Secretary Order 3366, “Increasing Recreational Opportunities on Lands and Waters Managed by the U.S. Department of the Interior.” This Order directed all Department bureaus, including the NPS, to review their regulations in order to increase existing recreational opportunities. The NPS expects the proposed rule to make the public aware of recreational opportunities at the Lakeshore by naming several snowmobile routes in the special regulation that are not currently identified.

Management of Snowmobiles at the Lakeshore.

Snowmobiling is a popular activity in and around the Lakeshore. In the winter, a number of unplowed roads lead to major points of interest, particularly the rock formations at Miners Castle and the tall dunes at Log Slide. Existing special regulations for the Lakeshore at 36 CFR 7.32 allow snowmobiles on the frozen waters of Lake Superior and Grand Sable Lake. They also

state that snowmobiles are allowed on the major visitor use roads that are unplowed, or on road shoulders of plowed roads. Snowmobiles are prohibited elsewhere in the Lakeshore, including cross-country travel and travel on non-motorized trails. After this general statement about where snowmobiles are allowed in the Lakeshore, the special regulations list nine “designated snowmobile routes” that are roads used by motor vehicles during other seasons.

In 2018, the NPS met with the Alger Road County Commission about rerouting a snowmobile route from an unplowed, paved county road (County Highway H-58) to an unplowed, scenic dirt road, part of which runs through the Lakeshore. During this meeting, the NPS recognized that although there is a general designation in the special regulations allowing snowmobiles on all unplowed roads within the Lakeshore, the rerouted trail was not on the list of designated snowmobile routes. This led to a discussion about whether the special regulations for the Lakeshore could be revised, consistent with the purposes of Executive Order 13771 and Secretary’s Order 3366, to identify, for the benefit of the public, each route within the Lakeshore where snowmobiles are allowed. This would remove ambiguity in the existing regulations about whether snowmobiles are allowed on unplowed roads or the shoulders of plowed roads that are not identified in the list of “designated snowmobile routes.” This would also bring the special regulations for the Lakeshore into full compliance with 36 CFR 2.18, which requires that snowmobiles routes be promulgated as special regulations. Clarifying where snowmobiles are allowed would have the added benefit of making it easier for NPS law enforcement officers to enforce the prohibition of snowmobile use off designated routes. This will help the NPS meet its statutory mandates to preserve the resources of the Lakeshore.

Proposed Rule.

This proposed rule would revise the special regulations for the Lakeshore at 36 CFR 7.32

to identify all routes and water surfaces within the Lakeshore where snowmobiles may be used. Some of these routes are already identified in the special regulations in paragraphs (a)(1)(i)-(ix) and would remain as designated routes. Other routes are not identified in the special regulations and would be added in paragraphs (a)(1)(x)-(xv). All designated routes would be roads used by motor vehicles during other seasons. If a route is plowed, the proposed rule would limit snowmobiles to road shoulders consistent with existing regulations. The proposed rule would continue to identify the frozen waters of Lake Superior and Grand Sable Lake as open to snowmobiles under redesignated paragraph (a)(1)(xvi). These waters are open to motorboats during other seasons.

The proposed rule would remove the general designation of all unplowed roads and shoulders of plowed roads to make it clear that if a location is not on the list of designated routes and water surfaces, snowmobiles are prohibited. The NPS does not expect these changes to affect visitor use patterns within the Lakeshore because the NPS already allows snowmobiles on the unplowed roads and shoulders of plowed roads consistent with the general designation in the special regulations. The public may become aware of legal snowmobile routes that are not listed in the existing special regulations which could lead to increased recreation and access. On the other hand, the public may become aware that snowmobiles are not allowed in locations where before it had been unclear. The NPS expects these circumstances to be exceptional and not notable consequences of the proposed rule. The goal of the proposed changes is to provide the public with simple and easy-to-understand rules about snowmobile use that minimize the potential for uncertainty.

The proposed rule also would state that the Superintendent may open or close designated routes and water surfaces, or portions thereof, to snowmobile travel after taking into

consideration the location of wintering wildlife, appropriate snow cover, public safety, and other factors. The proposed rule would require the Superintendent to notify the public of any such actions using one or more of the methods in 36 CFR 1.7(a).

Finally, the proposed rule would make minor changes to the descriptions of three routes that are already designated in the special regulations. In paragraph (a)(1)(v), the proposed rule would fix a typo by replacing the term “Country Road” with the term “County Road.” In paragraphs (a)(1)(viii) and (a)(1)(ix), the proposed rule would clarify that the designated roads no longer go directly to the Log Slide, and instead terminate at the Log Slide parking area.

Compliance with Other Laws, Executive Orders and Department Policy.

Regulatory Planning and Review (Executive Orders 12866 and 13563).

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has waived review of this proposed rule and, at the final rule stage, will make a separate decision as to whether the rule is a significant regulatory action as defined by Executive Order 12866.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We

have developed this proposed rule in a manner consistent with these requirements.

Reducing Regulation and Controlling Regulatory Costs (Executive Order 13771)

This proposed rule is not an Executive Order 13771 regulatory action because this proposed rule is not significant under Executive Order 12866.

Regulatory Flexibility Act.

The proposed rule would modify special regulations for the Lakeshore to designate snowmobile routes on roads and water surfaces that are used by motor vehicles or motorboats during other seasons. For the reasons explained above, the proposed rule is administrative in nature and not expected to change visitor use patterns at the Lakeshore because the NPS would not be allowing any new uses. The costs and benefits of a regulatory action are measured with respect to its existing baseline conditions. No changes are anticipated compared to baseline conditions because this regulatory action is administrative in nature with the intent to clarify existing regulations. In addition, this action will not impose restrictions on local businesses in the form of fees, training, record keeping, or other measures that would increase costs. Given those findings, this proposed regulatory action will not impose a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act.

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

- (a) Does not have an annual effect on the economy of \$100 million or more.
- (b) Will not cause a major increase in costs or prices for consumers, individual industries, federal, State, or local government agencies, or geographic regions.
- (c) Does not have significant adverse effects on competition, employment, investment,

productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act.

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The proposed rule would not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands, and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630).

This proposed rule would not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132).

Under the criteria in section 1 of Executive Order 13132, the proposed rule would not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This proposed rule only affects use of federally-administered lands and waters. It has no outside effects on other areas. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988).

This proposed rule complies with the requirements of Executive Order 12988. This proposed rule:

- (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and
- (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear

language and contain clear legal standards.

Consultation with Indian tribes (Executive Order 13175 and Department Policy).

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this proposed rule under the criteria in Executive Order 13175 and under the Department's tribal consultation policy and have determined that tribal consultation is not required because the proposed rule will have no substantial direct effect on federally recognized Indian tribes.

Paperwork Reduction Act.

This proposed rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act.

This proposed rule does not constitute a major federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the proposed rule is covered by a categorical exclusion. The NPS has determined the proposed rule is categorically excluded under NPS NEPA Handbook 2015 Section 3.3(A)(8) because this proposed rule revises existing regulations for the Lakeshore in a manner that would not (i) increase public use to the extent of compromising the nature and character of the area or causing physical damage to it; (ii) introduce noncompatible uses that might compromise the nature and characteristics of the area or cause physical damage to it; (iii) conflict with adjacent ownerships or land uses; or (iv) cause a

nuisance to adjacent owners or occupants. The NPS has also determined that the proposed rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

Effects on the Energy Supply (Executive Order 13211).

This proposed rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Clarity of this rule.

We are required by Executive Orders 12866 (section 1(b)(12)) and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (a) Be logically organized;
- (b) Use the active voice to address readers directly;
- (c) Use common, everyday words and clear language rather than jargon;
- (d) Be divided into short sections and sentences; and
- (e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Public Participation.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons

may submit written comments regarding this proposed rule by one of the methods listed in the **ADDRESSES** section of this document.

Public availability of comments.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects

36 CFR Part 7

District of Columbia, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority for part 7 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10-137 and D.C. Code 50-2201.07.

2. Amend §7.32 by:

- a. Revising the introductory text of paragraph (a)(1).
- b. Revising paragraphs (a)(1)(v), (a)(1)(viii), and (a)(1)(ix).
- c. Redesignating paragraph (a)(1)(x) as paragraph (a)(1)(xvi).
- d. Adding paragraphs (a)(1)(x) through (a)(1)(xv).
- e. Revising newly redesignated paragraph (a)(1)(xvi).

f. Revising paragraph (a)(3)

g. Adding paragraph (a)(4).

The revisions and additions to read as follows:

§ 7.32 Pictured Rocks National Lakeshore.

(a) * * *

(1) Snowmobiles are allowed on the following routes and water surfaces within Pictured Rocks National Lakeshore:

* * *

(v) The road from County Road H-58 at the park boundary to the Little Beaver Lake Campground.

* * *

(viii) The road from County Road H-58 to the Log Slide parking area.

(ix) The section of Michigan Dimension Road from the park boundary to the Log Slide parking area.

(x) The South Grand Sable Lake Road, starting at Towes Creek (T49N, R14W, Sections 14 and 23), heading south in and out of the fee zone area.

(xi) Portions of County Road H-58 that are within park boundaries between Twelvemile Beach and Log Slide scenic overlook (T49N, R15W, Sections 9, 10, 11, 13, 14, and 16 and T49, 14W, Section 18).

(xii) Portions of County Road H-58 that are within park boundaries between Log Slide Scenic Overlook and the Grand Sable Visitor Center (T49N, R14W, Sections 10, 11, 15, 16, and 17).

(xiii) County Road H-58 between Grand Sable Visitor Center to the eastern extent of the

park boundary (T49N, R14W, Sections 1, 11, and 12).

(xiv) Portions of Lowder Road that are within park boundaries from M77 to Grand Sable Lake Boat Ramp (T48N, R16W, Sections 21 and 29).

(xv) Portions of Beaver Basin Overlook Road from County Road H-58 to the Beaver Basin Overlook (T49N, R14W, Sections 11, and 12).

(xvi) The frozen water surfaces of Lake Superior and Grand Sable Lake.

* * * * *

(3) Snowmobile use outside designated routes and frozen water surfaces is prohibited. Snowmobiles are restricted to the road shoulders of routes that are plowed. The prohibitions in this paragraph do not apply to emergency administrative travel by employees of the National Park Service or law enforcement agencies.

(4) The Superintendent may open or close these routes and water surfaces, or portions thereof, to snowmobile travel after taking into consideration the location of wintering wildlife, appropriate snow cover, public safety, and other factors. The Superintendent will provide notice of such opening or closing by one or more of the methods listed in §1.7(a) of this chapter.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2020-24545 Filed: 11/5/2020 8:45 am; Publication Date: 11/6/2020]